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STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

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STATE SUPERINTENDENT

November 21, 2012

MEMORANDUM

TO: Local and Intermediate School District Superintendents, Public School Academy Directors, and Nonpublic School Administrators

FROM: Carol Wolenberg, Deputy Superintendent *Carol*

SUBJECT: Donation of Leftover Food

The Michigan Department of Education (MDE) is fully committed to providing Michigan's students with quality, nutritious meals while also taking the initiative to prevent hunger within all populations. If a school frequently has leftover food, it is suggested that meal planning practices be altered to prevent such waste. However, occasionally schools have excess prepared food which often ends up being thrown out. When it is not feasible to reuse leftovers, it should be known that leftover, non-served food may be donated to a community food bank, homeless shelter, or other nonprofit charitable organization as long as the school has followed FDA Food Code safe food handling requirements. This would include, but is not limited to, using products from an approved source and keeping the prepared food within time and temperature parameters, as well as date marking, as required.

On November 18, 2011, the Consolidated and Further Continuing Appropriations Act, 2012 (P.L. 112-55) amended the Richard B. Russell National School Lunch Act (NSLA) by adding paragraph (I), the Food Donation Program at the end of Section 9. This amendment provides clear statutory authority for the current Food and Nutrition Service (FNS) food recovery and donation policy in use by schools and institutions participating in the Child Nutrition Programs, including the National School Lunch Program (NSLP), School Breakfast Programs (SBP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP).

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This statute clarifies that any program food that is considered wholesome and has not been served may be donated to eligible local food banks or charitable organizations. The amendment defines the terms "eligible local food banks or charitable organizations" to mean any food bank or charitable organization which is exempt from tax under section 501(c) (3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)). It also extends protections against civil and criminal liability for persons or organizations when making food donations to the extent provided under the Bill Emerson Good Samaritan Food Donation Act, found in section 22 of the Child Nutrition Act.

The "Citizen's Guide to Food Recovery" was developed as a resource guide on food recovery programs for businesses, community-based organizations, private citizens, and public officials and describes some food recovery activities taking place and suggestions for new efforts. This publication can be found at:
<http://www.fns.usda.gov/fdd/gleaning/besthome.htm>.

As a reminder, all state and local health and sanitation codes should be reviewed and followed prior to discarding or donating food. Questions regarding this memo may be directed to the MDE at 517-373-8642. Questions related to health and sanitation codes should be directed to your local health department or to the Michigan Department of Agriculture and Rural Development (MDARD) at 517-241-0932.

cc: Michigan Education Alliance